IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7927 OF 2007

Suhas Kedari Mahadik] .. Petitioner

Versus

1. State of Maharashtra & 3 ors.] .. Respondents

Mr. Vinod Shetty and Ketaki Rege for the petitioner.

Mr. A.H. Palekar, AGP, for the respondents.

CORAM: S.B. MHASE &
D.G. KARNIK, JJ.

DATED: 25TH OCTOBER, 2007

P.C. :

1. Heard learned counsel for the parties.

2. By this petition, the petitioner challenges the imposition of penalty of stoppage of three increments by the order dated 14th October, 2005. The petitioner also seeks a direction to pay him full back wages during the period of his suspension between 13th December, 1999 to 6th December, 2005.

3. Petitioner who is employed as a clerk in the Labour Court was chargesheeted for two misconducts, viz. (i) demanding of bribe and (ii) non deposit of

Government money into the Nationalized Bank. Petitioner was initially held guilty of both charges and dismissed from service. On appeal, the petitioner was exonerated of the first charge and the matter was remanded back for reconsideration of penalty in view of the fact that the petitioner was exonerated in respect of one of the charges. After reconsideration, the petitioner was again dismissed from service, but on appeal the appellate authority reduced the punishment from dismissal to stoppage of three increments. In this petition, the petitioner has challenged that part of the order which imposes punishment of stoppage of three increments.

4. It is worthy to note that the petitioner has not challenged in this court the finding of guilt in respect of the second charge. His only grievance is in respect of the quantum of punishment. The matter of punishment in exercise of discretion by the authority and unless the exercise of discretion is found to be totally perverse, it is not possible to interfere in the said discretion. We do not find any perversity in the discretion exercised in the matter of imposing punishment.

5. As regards back wages admittedly the

petitioner did not work during the period of suspension between 13th December, 1999 to 6th December, 2005. The petitioner has been found guilty in respect of one charges. The petitioner has also not adduced any evidence that during the period of his suspension and/or dismissal he was not gainfully employed anywhere else. In the circumstances, the petitioner is not entitled to back wages.

6. There is no merit in the Petition. It is hereby rejected.

Sd/-
[D.G. KARNIK, J.]

Sd/-
[S.B. MHASE, J.]